

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8654 OF 2016

Dnyaneshwar Baliram Thakare,]
Age 32 Yrs., Occ.: Agriculturist,]
R/at Pali, Post Khani,]
Tal. Ambernath, Dist. Thane.] Petitioner

Versus

1. The State of Maharashtra,]
Through Department of Social Justice]
and Special Assistance,]
Mantralaya, Mumbai]
]
2. Caste Scrutiny Committee,]
Mumbai Division No.1,]
Konkan Bhavan, Navi Mumbai.]
]
3. District Collector, Thane.]
]
4. Pintu Motiram Mhatre]
Age : Adult, Occ.: Agri.,]
R/at Mhatre Pada, Posari,]
Post Khoni via Kalyan,]
Tal. Ambernath, Dist. Thane]
]
5. Abhimanyu Gotiram Mhatre,]
Age : Adult, Occ.: Agri.]
R/at Mhatre Pada, Posari,]
Post Khoni via Kalyan,]
Tal. Ambernath, Dist. Thane] Respondents

Mr. Vijay Killedar for the Petitioner.

Ms. R.A. Salunkhe, A.G.P., for Respondent Nos.1 to 3-State.

Mr. Vishal Patil for Respondent Nos.4 and 5.

CORAM : NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

RESERVED ON : 19TH APRIL, 2017.

PRONOUNCED ON : 25TH APRIL, 2017.

JUDGMENT : [Per Dr. Shalini Phansalkar-Joshi, J.]

1. Rule. Rule made returnable forthwith. Heard finally, by consent of the parties.

2. By this Petition, filed under Article 226 of the Constitution of India, Petitioner is challenging the Judgment and Order dated 2nd April 2016 passed by the Caste Scrutiny Committee, Mumbai Division No.1, Konkan Bhavan, Navi Mumbai, thereby invalidating his Caste Certificate dated 1st December 2013 and directing initiation of criminal prosecution against him for producing false and fabricated evidence relating to his caste.

3. Brief facts of the Petition are to the effect that, the Petitioner claims himself as belonging to "*Hindu-Kunbi Caste*", which is notified at Serial No.83 of the Government Resolution No.CBC-1467-M dated 13th October 1967, issued by Respondent No.1, to be "*Other Backward Caste (OBC)*".

4. To substantiate his claim, the Petitioner has relied upon the school record of his uncle, namely, Shri. Vishnu Appa Thakare. According to him, in the School Leaving Certificate of his uncle Vishnu Appa Thakare, his caste is mentioned as “*Kunbi*” since prior to the date of 13th October 1967.

5. On the basis of this caste claim, Petitioner contested the Election of Posari Village Panchayat. In the said Election, he was elected as a 'Member' and thereafter elected to be the 'Sarpanch' of the said Village Panchayat. Along with his nomination paper, he has produced the Caste Certificate as belonging to “*Kunbi*”. Respondent Nos.4 and 5, however, contested the caste claim of the Petitioner by making complaint to the Caste Scrutiny Committee. As a result, when the Caste Certificate of the Petitioner was sent to the Caste Scrutiny Committee for validation, on the basis of the Vigilance Cell Report dated 14th January 2016, showing interpolation and overwriting in the caste column of the school record of the Petitioner's uncle Vishnu Appa Thakare, the Petitioner's Caste Certificate came to be invalidated by the impugned order dated 2nd April 2016. Being aggrieved by the same, the Petitioner has approached this Court.

6. The submission of Mr. Vijay Killedar, learned counsel for the Petitioner, is to the effect that, in addition to the entry in General Register of the Z.P. School at Shirdon of the Petitioner's uncle Vishnu Appa Thakare, which was much prior to the relevant date of 13th October 1967, Petitioner is also having School Leaving Certificate of his uncle issued on 4th August 1999. In both these documents, the caste is mentioned as "*Hindu-Kunbi*". It is submitted that the Caste Scrutiny Committee has, however, ignored this material piece of evidence and solely relying on the Report of the Vigilance Cell Committee, invalidated the caste claim of the Petitioner and also, at the same time, directed initiation of criminal prosecution against the Petitioner. It is therefore submitted that the impugned order of the Caste Scrutiny Committee is liable to be quashed and set aside.

7. Per contra, Ms. R.A. Salunkhe, learned A.G.P., while relying upon the original school record of the Petitioner's uncle Vishnu Appa Thakare, which was called for in this Petition, has submitted that there is not only overwriting but interpolation also in the General Register maintained by the school of Petitioner's uncle Vishnu Appa Thakare. It is submitted that in the said Register, it is clearly visible,

even to the naked eye, that the word "*Kunbi*" is overwritten by different ink on the word "*Maratha*" against the entry of the name of Petitioner's uncle Vishnu Appa Thakare. It is urged that the Vigilance Cell Committee also, in its Report, has brought this fact to the notice of the Caste Scrutiny Committee. The Caste Scrutiny Committee has, therefore, on being satisfied that the Petitioner's claim as belonging to "*Hindu-Kunbi*" was based on the false and fraudulent document, rightly invalidated his Caste Certificate and directed initiation of criminal proceedings against him. According to learned A.G.P., therefore, the impugned order of the Caste Scrutiny Committee being based on the material on record, no interference is warranted therein by this Court.

8. Mr. Vishal Patil, learned counsel for Respondent Nos.4 and 5, had also supported the impugned order of the Caste Scrutiny Committee by pointing out that the Petitioner's claim is wholly based on the false and fabricated document. The General Register of the Z.P. School at Shirdon clearly reflects that there is overwriting in the 'Caste Column' in the entry of the name of Petitioner's uncle Vishnu Appa Thakare. This fact was noted by the Vigilance Cell Committee. It is urged by him that, except for this Caste Certificate of his uncle, which is found to be false and fabricated, no other

evidence is produced on record by the Petitioner to prove his caste claim. As against it, the documentary evidence, which is produced by Respondent Nos.4 and 5, clearly reflects that not only in the Revenue record of the Petitioner's fore-father Hari Jaitu Thakare, his caste is noted as "Maratha", but, even the school record of the Petitioner himself, that of his father Baliram Appa Thakare and his brother Dnyaneshwar Baliram Thakare, clearly proves that their caste is mentioned as "*Hindu-Maratha*". It is submitted that the Petitioner has, in order to avail the benefit of OBC Caste, applied for the Duplicate School Leaving Certificate, which was issued on 8th July 2015 by the Z.P. School at Pali on the basis of the Caste Certificate of his uncle, which was issued on the fabricated material, the Petitioner is claiming to be belonging to "*Hindu-Kunbi Caste*" and, hence, there is no merit in his claim. This Writ Petition, therefore, according to learned counsel for Respondent Nos.4 and 5, is devoid of any merits and needs to be dismissed with costs.

9. In the light of these rival submissions advanced at bar by learned counsels for the respective parties and in order to satisfy ourselves about the genuineness of the documents, on which the Petitioner's claim as belonging to "*Hindu-Kunbi*" is based, we had called for the original record to be produced before this Court.

Accordingly, on 18th April 2017, the learned A.G.P., has placed before us (i) the General Register maintained by the Z.P. School, Shirdon, (ii) Outward Register Barnishi, (iii) School Leaving Certificate of Vishnu Appa Thakare, and (iv) Outward Barnishi (Note-Book). On perusal of the same, we found that in the General Register of Z.P. School at Shirdon at Serial No.173, the name of Petitioner's uncle Vishnu Appa Thakare is appearing and in the column of 'Caste' and 'Sub-Caste', it is written "*Hindu-Maratha*". The word "*Kunbi*" is, however, overwritten by different ink in the place of "*Maratha*". In the Outward Register Barnishi and Note-Book, we noticed that, against the name of the Petitioner's uncle Vishnu Appa Thakare, no caste is mentioned. In the School Leaving Certificate of Vishnu Appa Thakare, which was issued in the year 2015, we noticed that the caste is mentioned as "*Hindu-Kunbi*".

10. The Report of the Vigilance Cell Committee, which was also produced before the Caste Scrutiny Committee and copy of which is produced in this case, also confirms that in the General Register maintained by Z.P. School, Shirdon, in respect of the entry at Serial No.173 of the Petitioner's uncle Vishnu Appa Thakare, the word "*Kunbi*" is overwritten by different ink in place of the word "*Maratha*". It is clear that, on the basis of this entry in General

Register, which is interpolated, the Petitioner has claimed himself to be belonging to "*Hindu-Kunbi Caste*". It may be true, that in the School Leaving Certificate of his uncle Vishnu Appa Thakare, his caste is mentioned as "*Hindu-Kunbi*", but that appears to be purely on the basis of the entry in the General Register. However, once it is held that the entry in the General Register relating to caste is interpolated and there is overwriting as regards the word "*Kunbi*" in place of the word "*Maratha*", such School Leaving Certificate becomes devoid of any value and, therefore, the very document on which the Petitioner is relying for his caste claim as belonging to "*Hindu-Kunbi*" having been found to be false and fabricated piece of evidence, in our considered opinion, the Caste Scrutiny Committee has rightly invalidated his Caste Certificate.

11. As regards the School Leaving Certificate of the Petitioner, learned counsel for Respondent Nos.4 and 5 has produced on record various documents to show that the Petitioner was the student of Z.P. School at Pali, Taluka Ambernath, where he took an admission on 21st June 1989. There, he studied upto 4th Standard. In the General Register maintained by the said School, at Serial No.255, against the name of the Petitioner, in the columns 'Caste' and 'Sub-Caste', the Petitioner's caste is shown as "*Hindu-Maratha*". The copy

of the said General Register is produced at Exhibit-G. Learned counsel for Respondent Nos.4 and 5 has also relied upon the Entry No.801 in the General Register maintained by Z.P. School at Chirat, wherein the Petitioner had taken admission, after passing 4th Standard from the Z.P. School at Pali. The said entry also clearly goes to show the caste of the Petitioner is "*Hindu-Maratha*". The copy of the relevant extract of the said General Register is produced at Exhibit-H. Further the Petitioner's Bonafide Certificate issued by Guru Krupa Vidyalaya at Ustane, Post Vadi, Taluka Ambernath, duly signed by the Head-Master of the said school also Petitioner's caste is shown as "*Hindu-Maratha*". The relevant copy of the Bonafide Certificate is at Exhibit-I.

12. Thus, it is clear that, in order to avail the benefit of OBC Caste, Petitioner has applied for Duplicate School Leaving Certificate, which is issued by Z.P. School at Pali on 8th July 2015, stating his caste to be "*Hindu-Kunbi*" and the said Caste Certificate is issued on the basis of the fabricated document i.e. the entry relating to Petitioner's uncle Vishnu Appa Thakare, which was found to be false and fabricated.

13. It is pertinent to note that even the caste of the elder brother

of the Petitioner, namely, Narayan Baliram Thakare, is mentioned as "*Hindu-Maratha*" at Serial No.68 in the General Register maintained by the Z.P. School at Pali. Narayan's caste remained to be mentioned as "*Hindu-Maratha*" even in the General Register of Z.P. School at Chirat, Taluka Ambernath. The relevant extract of the said school is also produced at Exhibit-J.

14. The other brother of the Petitioner, namely, Kamlakar Baliram Thakare, was the student of Z.P. School at Pali and in the General Register maintained by the said school, at Sr. No.171, his caste is also shown as "*Hindu-Maratha*". The relevant extract of the General Register is produced at Exhibit-K.

15. Even in respect of Petitioner's cousin brother Rupesh Shivaji Thakare, the entry made at Sr.No.268 in the General Register of Z.P. School at Pali, his caste is mentioned as "*Hindu-Maratha*". The copy of the said extract is produced at Exhibit-L. Even in his subsequent school at Chirat, in the General Register at Serial No.770, the caste of Rupesh Shivaji Thakare is mentioned as "*Hindu-Maratha*". Not only in that school, but, even in the subsequent school of Guru Krupa Vidyalaya at Usatane, Post Vadi, Taluka Ambernath, in the Bonafide Certificate issued to Rupesh Shivaji Thakare, his caste is mentioned

as "*Hindu-Maratha*". Those relevant extracts are also produced on record at Exhibit-M.

16. Thus, in our considered opinion, there was more than sufficient material before the Caste Scrutiny Committee and before this Court also to show that the Petitioner belongs to the caste of "*Hindu-Maratha*". However, with an intention to avail the benefit given to the reserved caste, Petitioner has obtained the Caste Certificate as belonging to "*Hindu-Kunbi*". As the said Caste Certificate was obtained on the forged and false document, like, the entry in General Register of Z.P. School of his uncle Vishnu Appa Thakare, we are more than convinced that the Caste Scrutiny Committee has rightly invalidated Caste Certificate of the Petitioner and ordered initiation of criminal proceedings against him.

17. We are, therefore, neither justified nor inclined, in any way, to interfere in the impugned order of the Caste Scrutiny Committee. The Writ Petition, therefore, being without merits, stands dismissed.

18. Rule is discharged.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[NARESH H. PATIL, J.]